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इस भाग में निम्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 23rd February, 1994:—

BILL No. XI OF 1994

A Bill further to amend the Banking Regulation Act, 1949

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Banking Regulation (Amendment) Act, 1994.

Short
title and
com-
mence-
ment

(2) It shall be deemed to have come into force on the 31st day of January, 1994.

10 of 1949

2. In section 10B of the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act),—

Amend-
ment of
section
10B

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Notwithstanding anything contained in any law for the time being in force or in any contract to the contrary, every banking company in existence on the commencement of the Banking Regulation (Amendment) Act, 1994, or which comes into existence thereafter shall have one of its directors who may be appointed on a whole-time or a part-time basis, as chairman

of its Board of directors, and where he is appointed on a whole-time basis, as chairman of its Board of directors, he shall be entrusted with the management of the whole of the affairs of the banking company;

Provided that the chairman shall exercise his powers subject to the superintendence, control and direction of the Board of directors.

(1A) Where a chairman is appointed on a part-time basis,—

(i) such appointment shall be with the previous approval of the Reserve Bank and be subject to such conditions as the Reserve Bank may specify while giving such approval;

(ii) the management of the whole of the affairs of such banking company shall be entrusted to a managing director who shall exercise his powers subject to the superintendence, control and direction of the Board of directors.”;

(b) in sub-section (2), for the words “Every chairman of the Board of directors”, the words “Every chairman of the Board of directors who is appointed on a whole-time basis and every managing director” shall be substituted;

(c) in sub-section (4),—

(i) in the opening paragraph, for the words “Every chairman of the Board of directors of a banking company”, the words, brackets, figure and letter “Every chairman who is appointed on a whole-time basis and every managing director of a banking company appointed under sub-section (1A)” shall be substituted;

(ii) in the proviso, for the word “chairman”, the words “chairman who is appointed on a whole-time basis or a managing director” shall be substituted;

(d) in sub-section (5) and (5A), for the words “A chairman of the Board of directors”, the words “A chairman of the Board of directors appointed on a whole-time basis or a managing director” shall be substituted;

(e) in sub-section (6),—

(i) for the words “chairman of the Board of directors” wherever they occur, the words “chairman of the Board of directors who is appointed on a whole-time basis or the managing director” shall be substituted;

(ii) for the words “chairman of its Board of directors” at both the places where they occur, the words “chairman of the Board of directors who is appointed on a whole-time basis or the managing director” shall be substituted;

(iii) for the words “appointed as chairman”, the words “appointed as chairman on a whole-time basis or managing director” shall be substituted;

(f) in sub-section (8),—

(i) for the words "the chairman", the words "the chairman of the Board of directors who is appointed on a whole-time basis or the managing director" shall be substituted;

(ii) for the words "such chairman", the words "such chairman or managing director" shall be substituted;

(g) in sub-section (9),—

(i) for the words "appointed as chairman", the words "appointed on a whole-time basis, as chairman of the Board of directors or managing director" shall be substituted;

(ii) for the words "duties of chairman", the words "duties of chairman or managing director" shall be substituted.

3. In section 10BB of the principal Act, for the word "chairman" wherever it occurs, the words "chairman of the Board of directors appointed on a whole-time basis or a managing director" shall be substituted.

Amendment of section 10BB.

4. In section 10C of the principal Act, for the words "A chairman" the words "A chairman of the Board of directors who is appointed on a whole-time basis or a managing director" shall be substituted.

Amendment of section 10C.

5. In section 10D of the principal Act, for the words "director or chairman", the words "director, chairman of the Board of directors who is appointed on a whole-time basis or managing director" shall be substituted.

Amendment of section 10D.

6. In section 12 of the principal Act, in sub-section (2), for the words "one per cent.", the words "ten per cent." shall be substituted.

Amendment of section 12.

7. In section 16 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment of section 16.

"(1) No banking company incorporated in India shall have as a director in its Board of directors any person who is a director of any other banking company.

(1A) No banking company referred to in sub-section (1) shall have in its Board of directors, more than three directors who are directors of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of that banking company."

8. In section 46 of the principal Act, in sub-section (4), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—

Amendment of section 46.

"fifty thousand rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where a contravention or default is a continuing one, with a further fine which may extend to two thousand and five hundred rupees".

Amend-
ment of
section
46A

9. In section 46A of the principal Act, for the words "Every chairman, director, auditor", the words "Every chairman who is appointed on a ~~whole-time~~ basis, managing director, director, auditor" shall be substituted.

Amend-
ment of
section
47A.

10. In section 47A of the principal Act,—

(i) in sub-section (1), in clause (b), for the portion beginning with the words "two thousand rupees" and ending with the words "one hundred rupees", the following shall be substituted, namely:—

"five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees";

(ii) for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

"(2) For the purpose of adjudging the penalty under sub-section (1), the Reserve Bank shall serve notice on the banking company requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such banking company."

Repeal
and
saving

11. (1) The Banking Regulation (Amendment) Ordinance, 1994, is hereby repealed.

Ord 5
of 1994

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Banking Regulation Act, 1949 does not provide for appointment of part-time chairmen in banking companies. It has, therefore, been considered necessary that the Act should be suitably amended to provide for appointment of eminent persons as part-time chairmen in banking companies. When a person is to be appointed, as part-time Chairman, such appointment should be made with the previous approval of the Reserve Bank of India and subject to such conditions as the Reserve Bank of India may specify and the management of such banking company should be entrusted to a managing director who shall exercise his powers subject to the superintendence, control and direction of the Board of directors. It has also been considered necessary to raise the ceiling on voting rights of a shareholder from the existing one per cent to ten per cent. Further, section 16 of the Act provides that no banking company incorporated in India shall have as a director any person who is a director of any other banking company or of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of the banking company. In view of this provision, the directors of the institutions promoting new banking companies that may come up would not be in a position to be directors of such new banking companies and in order to bring in more effective coordination among the promoter institutions and the new banking companies so as to continue some of the traditions of the promoters in terms of work culture, ethics and professional approach, it has been considered essential that the promoter institutions should have representatives on the Board of new banking companies. This provision, therefore, requires to be amended to provide that a banking company incorporated in India shall have not more than three directors from among the directors of companies which among themselves are entitled to exercise voting rights in excess of 20 per cent of that total voting rights of all the shareholders of the banking company.

2. With a view to ensuring effective implementation of the policy of allowing new banks to enter the banking system and to enable the Reserve Bank of India to effectively perform its functions, it has been considered necessary to make suitable amendments urgently in the Banking Regulation Act, 1949. It has, further been considered that opportunity be availed of to amend the provisions of sections 46 and 47A of the Act by suitably enhancing the penalties which may be imposed on a banking company so as to provide deterrent effect of these provisions and for simplifying the procedure to be followed by the Reserve Bank of India for adjudging the penalty.

3. As Parliament was not in session and the above-mentioned amendments were required to be made urgently, the President promulgated the Banking Regulation (Amendment) Ordinance 1994 (Ord. 5 of 1994) on the 31st day of January, 1994.

4. The Bill seeks to replace the aforesaid Ordinance.

DR. ABRAR AHMED.

V. S. RAMA DEVI,
Secretary-General.